

APPENDIX A

APPENDIX A, TAB A

Engelhard
Kansas
Talc

CAHILL GORDON & REINDEL
EIGHTY PINE STREET
NEW YORK, N.Y. 10005

FLOYD ABRAMS
ROGER ANDRUS
MICHAEL A. BECKER
HENRY G. BISQATIER
SUSAN BUCKLEY
KEVIN J. BURKE
P. KEVIN CASTEL
JAMES J. CLARK
WALTER C. CLIFF, P.C.
BENJAMIN J. COHEN
JOSEPH P. CONWAY
MARSHALL COX
THOMAS F. CURNIN
W. LESLIE DUFFY
RAYMOND L. FALLS, JR.
PATRICIA FARREN
BART FRIEDMAN
GIRO A. GAMBONI
CHARLES A. GILMAN
STEPHEN A. GREENE
ROBERT M. HALLMAN
EDWARD A. HANSEN
WILLIAM M. HARTNETT
DAVID R. HYDE
THOMAS R. JONES
ALEX S. JOSLYN
JAMES J. KAVALER
FREDERICK A. KOBRIK
MANUEL KOHN
EDWARD P. KRUGHMAN
WILLIAM T. LIFLAND
MICHAEL MACRIS

JONATHAN I. MARK
DENIS MCINERNEY, P.C.
RAND MCQUINN
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CLIFFORD L. MICHEL
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MATHIAS E. MONE
HUGH P. MORRISON, JR.
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KENNETH W. ORCE
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ROY L. REGOZIN
RICHARD L. REINHOLD
DEAN RINGEL
THORN ROSENTHAL
RICHARD J. SABELLA
IRWIN SCHNEIDERMAN, P.C.
H. RICHARD SCHUMACHER
JOHN SCHUSTER
LAURENCE A. SILVERMAN
HOWARD G. SLOANE
LAURENCE T. SORKIN
LEONARD A. SPIVAK
GERALD S. TANENBAUM
MICHAEL P. TIERNEY
ROBERT USADI
JOHN R. VAUGHAN
GEORGE WAILAND
RALPH O. WINGER
GARY W. WOLF
JOHN R. YOUNG

SAMUEL ESTREICHER
RICHARD A. MAHFOOD, O.C. **
MICHAEL S. SACKHEIM
JOHN J. STANTON, JR.
COUNSEL

FREDDY DRESSEN ***
EUROPEAN COUNSEL

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* ADMITTED D.C. ONLY
** ALSO ADMITTED ENGLAND AND JAMAICA
*** ADMITTED FRANCE ONLY

TELEPHONE 212-701-2000
WRITER'S DIRECT NUMBER

(212) 701-3648

August 30, 1989

Re: Engelhard - Tireworkers Litigation

Dear Jim:

AS I mentioned to you previously, for a number of months Engelhard has been actively seeking a dismissal from the tireworkers litigation pending in federal and state court in Pennsylvania on the ground that Engelhard's talc did not contain asbestos. Our main support for this contention was an affidavit prepared by an expert on talc, William Ashton, who reached this conclusion based on his review of numerous reports, studies and analyses of the talc from Engelhard's only talc mine in Vermont.

Last week, plaintiffs' counsel in Pennsylvania agreed to dismiss Engelhard from the tireworkers litigation on this basis. I believe that a similar dismissal is warranted in all other jurisdictions where a tireworkers lawsuit is pending. In this regard, I am enclosing the following documents pertaining to our discussions with plaintiffs' counsel in Pennsylvania:

a. my cover letter of May 17, 1989 to Jeff Schwartz, plaintiffs' counsel in Philadelphia, enclosing the affidavits of William Ashton and Charles Carter;

b. the September 20, 1988 affidavit of Charles Carter of Engelhard;

APPENDIX A, TAB B

CAHILL GORDON & REINDEL

EIGHTY FINE STREET

NEW YORK, N.Y. 10005

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JOHN J. STANTON, JR.
COUNSEL

FREDDY DRESSSEN
EUROPEAN COUNSEL

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1800 K STREET, N.W.
WASHINGTON, D.C. 20005

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75008 PARIS, FRANCE

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FACSIMILE 212-260-5480

* ADMITTED D.C. ONLY
** ALSO ADMITTED ENGLAND AND JAMAICA
*** ADMITTED FRANCE ONLY

TELEPHONE 212-701-3000

WRITER'S DIRECT NUMBER

(212) 701-3648

September 25, 1989

Re: Engelhard - Tireworkers Litigation

Dear Jim:

As a follow-up to my letter of August 30, 1989 enclosing the Affidavit of William Ashton and related documents, enclosed is the Order of Judge Charles Weiner of the U.S. District Court for the Eastern District of Pennsylvania, formally dismissing Engelhard and Eastern Magnesia Talc Co. from all 174 tireworkers cases filed in that Court.

Sincerely,

Ira J. Dembrow
Ira J. Dembrow

James D. Griffin, Esq.
Blackwell Sanders Matheny Weary
& Lombardi
Two Pershing Square
2300 Main Street, Suite 1100
P.O. Box 419777
Kansas City, Missouri 64141-6777
FEDERAL EXPRESS

[Enclosure]

cc: Howard G. Sloane, Esq. (w/o encl.)
Kevin Finnegan, Esq. (w/o encl.)
Eric S. Sarnier, Esq. (w/o encl.)

APPENDIX A, TAB C

*Engelhard - Talc
Cleveland
Conn.*

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CLEVELAND, OHIO 44113-8841
(216) 241-8602
OHIO TOLL FREE (800) 336-4952
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October 2, 1989

Peter J. Brodhead, Esq.
1500 National City Bank Bldg.
Cleveland, Ohio 44114

Re: Engelhard/Eastern Magnesia Talc Co.-
Tireworkers Litigation
Our File No: 15241-07866

Dear Peter:

I have attempted to reach you by telephone to discuss this matter. In the event that we do not succeed in making contact by telephone, I am enclosing a packet of documents for your review and consideration. After you have had an opportunity to review these materials, I would ask that you give me a call to discuss this matter.

As you know, I represent Engelhard/Eastern Magnesia Talc Co., which is named as a defendant in the Tireworker cases that you have filed in federal court.

This letter is to request that you voluntarily dismiss Engelhard Corporation and its former wholly-owned subsidiary, Eastern Magnesia Talc Co. ("EMTAL") from the Tireworker cases that you have filed in federal court. The basis for this request is that we have determined that the talc that was produced by EMTAL did not contain any asbestos. Under these circumstances, there does not seem to be any basis to keep Engelhard or EMTAL as named defendants in these lawsuits. I am sure that you can appreciate the substantial expense that is being incurred by Engelhard as a result of being named as a defendant in these lawsuits.

There is precedent for my request. Engelhard and EMTAL were named as defendants in 28 lawsuits brought on behalf of former tireworkers at the B.F. Goodrich plant in Oaks, PA. Those lawsuits were filed in the Eastern District of Pennsylvania. I am enclosing the documents and materials that were provided to Jeffrey C. Schwartz of the Allen L. Rothenberg law firm in Philadelphia, PA. I am advised that after Mr. Schwartz had an opportunity to review these materials, he was satisfied that the talc produced by Engelhard and EMTAL did not contain any asbestos, and therefore, he voluntarily dismissed Engelhard and EMTAL from the Tireworker

WESTON, HURD, FALLON, PAISLEY & HOWLEY

Peter J. Brodhead, Esq.
October 2, 1989
Page 2

litigation in Philadelphia.

The documents enclosed are as follows:

- (1) Affidavit of Charles D. Carter dated September 20, 1988;
- (2) A copy of an Affidavit by Charles D. Carter dated June 19, 1989;
- (3) A copy of a report prepared by Dr. F. D. Pooley concerning an examination of talc samples taken from the Johnson Talc Mine;
- (4) A copy of an Affidavit prepared by William H. Ashton dated May 8, 1989, with attached Exhibits A through G.
- (5) The dismissal entry from the federal action in Philadelphia.

In reviewing these documents, you will note that Engelhard's only talc mine was located in Johnson, Vermont and that Engelhard produced talc from that mine from 1967, when it acquired the mine, through 1983, when the mine was closed for economic reasons. (See Affidavits of Charles Carter). The Affidavit of William Ashton, an expert retained by Engelhard, summarizes a number of reports, studies and analyses from the Johnson, Vermont talc mine. These reports, studies and analyses conclude that the talc produced from Engelhard's only talc mine did not contain asbestos. Apparently a sample of the talc from the mine was analyzed in 1982 using scanning electron microscopy and energy dispersive spectroscopy and x-ray diffraction analysis and analytical transmission electron microscopy. The conclusion was that no asbestos was present in the sample. (See para. 7 of Ashton Affidavit).

During the months of May and June of 1989, there was an exchange of correspondence between Jeffrey Schwartz in Philadelphia and counsel for Engelhard. I have not enclosed copies of that correspondence, but it indicates that there are no samples currently available from the Johnson Vermont Mine. The reason for this is that the mine is filled with water, making access to samples impossible.

It is my understanding that the most recent NIOSH report is consistent with the materials that are enclosed herein, in that no asbestos was found in the talc used in the tireworker facility that was subject to the study.

After Mr. Schwartz had an opportunity to review these

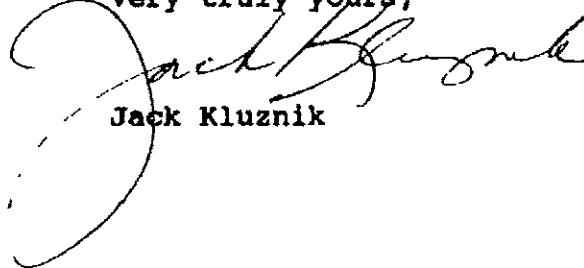
WESTON, HURD, FALLON, PAISLEY & HOWLEY

Peter J. Brodhead, Esq.
October 2, 1989
Page 3

materials, he agreed to voluntarily dismiss Engelhard and EMTAL from the federal litigation in Philadelphia. I would ask that you review these materials and give serious consideration to dismissing Engelhard and EMTAL from the Tireworkers litigation in federal court in Cleveland, Ohio. I am sure that you can appreciate the concern of my client to avoid incurring further expenses from this litigation unnecessarily. This would seem to be an appropriate time to eliminate unnecessary and inappropriate defendants, in light of the meeting that was conducted by Judge Lambros approximately 10 days ago.

Please feel free to call me after you have had an opportunity to review these matters. If any additional information would be of assistance to you in making this determination, please feel free to let me know.

Very truly yours,

A large, stylized handwritten signature in dark ink, appearing to read "Jack Kluznik". The signature is written over the typed name "Jack Kluznik".

Jack Kluznik

jk/ec
Enclosures

APPENDIX A, TAB D

BLACKWELL SANDERS MATHENY WEARY & LOMBARDI

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OVERLAND PARK, KANSAS 66225-5388
913 345-8400

TWO PERSHING SQUARE
2300 MAIN STREET-SUITE 1100
P. O. BOX 419777
KANSAS CITY, MISSOURI 64141-8777
816 274-8600

October 9, 1989

Stephen G. Dickerson, Esq.
VASOS, KUGLER & DICKERSON
200-10 Cambridge Place
Ten East Cambridge Circle
Kansas City, MO 66103

RE: Kansas Consolidated Tireworker Asbestos Litigation
Our File: 89105

Dear Mr. Dickerson:

I represent Englehard Corporation and its former wholly-owned subsidiary, Eastern Magnesia Talc Co., which are defendants in the consolidated tireworker asbestos litigation in Wichita, Kansas. We have agreed that Englehard and Eastern Magnesia Talc need not file an answer until you have had an opportunity to review the material which I am sending you and make a decision whether or not to dismiss them from the cases you have filed.

As we discussed, Englehard and Eastern Magnesia Talc were recently dismissed from the tireworker asbestos litigation pending in Federal Court in Pennsylvania based on the information which I am sending you.

I enclose affidavits of Charles D. Carter, Director of Joint Ventures and Resources of Englehard, dated September 20, 1988 and June 19, 1989. Mr. Carter's affidavits demonstrate that Englehard's only talc mine was located in Johnson, Vermont, and that Englehard produced talc from that mine from 1967, when it acquired the mine, through 1983, when the mine was closed for economic reasons.

Also enclosed is an affidavit by William H. Ashton, who has been involved in investigating and studying the talc industry and talc technology over 35 years. In his affidavit, Mr.

BLACKWELL SANDERS MATHENY WEARY & LOMBARDI

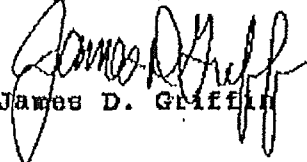
Stephen G. Dickerson, Esq.
October 9, 1989
Page 2

Ashton summarizes a number of reports, studies and analyses, from the 1940's through the 1980's of the talc produced at the Johnson, Vermont talc mine that was owned and operated by Eastern Magnesia Talc from 1967 through 1983. The unequivocal conclusion, reached by all of these investigations, as set forth in Mr. Ashton's affidavit, is that talc from the Johnson, Vermont mine, which was Englehard's only talc mine, did not contain asbestos. Included among the various studies and reports discussed by Mr. Ashton are two separate 1982 analyses of the talc from the Johnson mine, both of which concluded, based on respectively, (i) scanning electron microscopy and energy dispersive spectroscopy, and (ii) x-ray diffraction analysis and analytical transmission electron microscopy, that no asbestos was present. I also enclose the report by Dr. F. D. Pooley referred to in paragraph 7 of the Ashton affidavit.

Finally, I enclose the order of dismissal of defendants Englehard Corporation and Eastern Magnesia Talc Company entered September 8, 1989 for the tireworkers asbestos litigation pending in the United States District Court for the Eastern District of Pennsylvania. This dismissal was based on the information which I have enclosed in this letter.

I would urge that after you review the enclosed affidavits, you will agree to voluntarily dismiss Englehard and Eastern Magnesia Talc from the tireworker litigation pending in Wichita, Kansas. If you should have any questions, please feel free to contact me. I look forward to receiving your response prior to the next hearing before Judge Kelly which has now been re-scheduled to November 20, 1989.

Very truly yours,


James D. Griffin

JDG/lc
Enclosures
cc: Ira J. Dembrow, Esq. w/enclos
William H. Sanders

APPENDIX A, TAB E

WESTON HURD
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January 2, 1990

Michael F. Colley, Esq.
Hoster & High Building
536 South High Street
Columbus, Ohio 43215

Re: Engelhard/Eastern Magnesia Talc Co.-
Tireworkers Litigation
Our File No: 15241-07866

Dear Mr. Colley:

As you know, I represent Engelhard/Eastern Magnesia Talc Co., which is named as a defendant in the Tireworker cases that you have filed in Summit County Common Pleas Court.

I have received your letter of December 21, 1989. This letter is to request that you voluntarily dismiss Engelhard Corporation and its former wholly-owned subsidiary, Eastern Magnesia Talc Co. ("EMTAL") from the Tireworker cases that you have filed in Summit County Common Pleas Court. The basis for this request is that we have determined that the talc that was produced by EMTAL did not contain any asbestos. I am enclosing a packet of documents that supports this request. Under these circumstances, there does not seem to be any basis to keep Engelhard or EMTAL as named defendants in these lawsuits. I am sure that you can appreciate the substantial expense that is being incurred by Engelhard as a result of being named as a defendant in these lawsuits.

There is precedent for my request. Engelhard and EMTAL were named as defendants in 28 lawsuits brought on behalf of former tireworkers at the B.F. Goodrich plant in Oaks, PA. Those lawsuits were filed in the Eastern District of Pennsylvania. I am enclosing the documents and materials that were provided to Jeffrey C. Schwartz of the Allen L. Rothenberg law firm in Philadelphia, PA. I am advised that after Mr. Schwartz had an opportunity to review these materials, he was satisfied that the talc produced by Engelhard and EMTAL did not contain any asbestos, and therefore, he voluntarily dismissed Engelhard and EMTAL from the Tireworker litigation in Philadelphia.

Michael F. Colley, Esq.
January 2, 1990
Page 2

The documents enclosed are as follows:

- (1) Affidavit of Charles D. Carter dated September 20, 1988;
- (2) A copy of an Affidavit by Charles D. Carter dated June 19, 1989;
- (3) A copy of a report prepared by Dr. F. D. Pooley concerning an examination of talc samples taken from the Johnson Talc Mine;
- (4) A copy of an Affidavit prepared by William H. Ashton dated May 8, 1989, with attached Exhibits A through G.
- (5) The dismissal entry from the federal action in Philadelphia.

In reviewing these documents, you will note that Engelhard's only talc mine was located in Johnson, Vermont and that Engelhard produced talc from that mine from 1967, when it acquired the mine, through 1983, when the mine was closed for economic reasons. (See Affidavits of Charles Carter). The Affidavit of William Ashton, an expert retained by Engelhard, summarizes a number of reports, studies and analyses from the Johnson, Vermont talc mine. These reports, studies and analyses conclude that the talc produced from Engelhard's only talc mine did not contain asbestos. Apparently a sample of the talc from the mine was analyzed in 1982 using scanning electron microscopy and energy dispersive spectroscopy and x-ray diffraction analysis and analytical transmission electron microscopy. The conclusion was that no asbestos was present in the sample. (See para. 7 of Ashton Affidavit).

During the months of May and June of 1989, there was an exchange of correspondence between Jeffrey Schwartz in Philadelphia and counsel for Engelhard. I have not enclosed copies of that correspondence, but it indicates that there are no samples currently available from the Johnson Vermont Mine. The reason for this is that the mine is filled with water, making access to samples impossible.

It is my understanding that the most recent NIOSH report is consistent with the materials that are enclosed herein, in that no asbestos was found in the talc used in the tireworker facility that was subject to the study.

After Mr. Schwartz had an opportunity to review these materials, he agreed to voluntarily dismiss Engelhard and EMTAL

Michael F. Colley, Esq.
January 2, 1990
Page 3

from the federal litigation in Philadelphia. I would ask that you review these materials and give serious consideration to dismissing Engelhard and EMTAL from the Tireworkers litigation in Judge Victor's Court in Akron, Ohio. I am sure that you can appreciate the concern of my client to avoid unnecessarily incurring further expenses from this litigation. This would seem to be an appropriate time to eliminate unnecessary and inappropriate defendants, in light of the statements by Judge Victor concerning the litigation schedule for these cases.

Please feel free to call me after you have had an opportunity to review these matters. If any additional information would be of assistance to you in making this determination, please feel free to let me know.

Very truly yours,


Jack Kluznik

jk/ec
Enclosures

APPENDIX A, TAB F

James M. Gaskie, Esq.
January 2, 1990
Page 2

The documents enclosed are as follows:

- (1) Affidavit of Charles D. Carter dated September 20, 1988;
- (2) A copy of an Affidavit by Charles D. Carter dated June 19, 1989;
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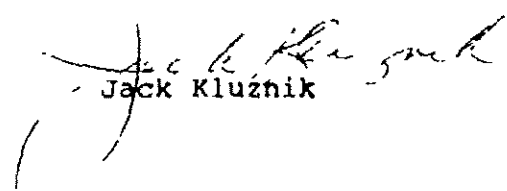
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James M. Gaskie, Esq.
January 2, 1990
Page 3

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Please feel free to call me after you have had an opportunity to review these matters. If any additional information would be of assistance to you in making this determination, please feel free to let me know.

Very truly yours,


Jack Kluznik

jk/ec
Enclosures

APPENDIX A, TAB G

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January 2, 1990

A Russell Smith, Esq.
503 Society Building
Akron, Ohio 44308

Re: Engelhard/Eastern Magnesia Talc Co.-
Tireworkers Litigation
Our File No: 15241-07866

Dear Mr. Smith:

As you know, I represent Engelhard/Eastern Magnesia Talc Co., which is named as a defendant in the Tireworker cases that you have filed in Summit County Common Pleas Court.

This letter is to request that you voluntarily dismiss Engelhard Corporation and its former wholly-owned subsidiary, Eastern Magnesia Talc Co. ("EMTAL") from the Tireworker cases that you have filed in Summit County Common Pleas Court. The basis for this request is that we have determined that the talc that was produced by EMTAL did not contain any asbestos. I am enclosing a packet of documents that supports this request. Under these circumstances, there does not seem to be any basis to keep Engelhard or EMTAL as named defendants in these lawsuits. I am sure that you can appreciate the substantial expense that is being incurred by Engelhard as a result of being named as a defendant in these lawsuits.

There is precedent for my request. Engelhard and EMTAL were named as defendants in 28 lawsuits brought on behalf of former tireworkers at the B.P. Goodrich plant in Oaks, PA. Those lawsuits were filed in the Eastern District of Pennsylvania. I am enclosing the documents and materials that were provided to Jeffrey C. Schwartz of the Allen L. Rothenberg law firm in Philadelphia, PA. I am advised that after Mr. Schwartz had an opportunity to review these materials, he was satisfied that the talc produced by Engelhard and EMTAL did not contain any asbestos, and therefore, he voluntarily dismissed Engelhard and EMTAL from the Tireworker litigation in Philadelphia.

A. Russell Smith, Esq.
January 2, 1990
Page 2

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- (2) A copy of an Affidavit by Charles D. Carter dated June 19, 1989;
- (3) A copy of a report prepared by Dr. F. D. Pooley concerning an examination of talc samples taken from the Johnson Talc Mine;
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A. Russell Smith, Esq.
January 2, 1990
Page 3

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Please feel free to call me after you have had an opportunity to review these matters. If any additional information would be of assistance to you in making this determination, please feel free to let me know.

Very truly yours,



Jack Kluznik

jk/ec
Enclosures

APPENDIX A, TAB H

Eng-mich Talc

JOHN A. WISE
ROBERT A. MARSAC
JOSEPH L. FALIK
STEPHEN M. FLEMING
DARRELL M. GRAHS
ERIC H. LIPSITT
JOHN M. POLLOCK
STEPHEN R. COCHELL
TED A. JOHNSON
JERRY D'AVANZO
JAMES F. KAMP
NANCY E. F. SUMMERS
KAREN E. BRIDGES
LISA A. ROBINSON
GARY A. KENDRA
GREGORY E. SMITH
MARK T. BUTLER
INGRID W. AMBERG
JUDY A. LAZZARO

WISE & MARSAC
ATTORNEYS AND COUNSELORS
PROFESSIONAL CORPORATION
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NEW YORK, NEW YORK 10019
(212) 308-8113

TELECOPIER (313) 962-0688
CABLE: OYWI-DET
TELEX: 810-221-8371

*ADMITTED IN
NEW YORK ONLY

January 12, 1990

Ms. Phoebe Corry
LOPATIN, MILLER, FREEDMAN, BLUESTONE,
ERLICK, ROSEN & BARTNICK
1301 East Jefferson Avenue
Detroit, MI 48207-3119

RE: TIREWORKER CLAIMS AGAINST PITA REALTY

Dear Ms. Corry:

As you know, this firm is local counsel for Defendant Pita Realty Limited, f/k/a, Eastern Magnesita Talc Company in the asbestos personal injury cases filed by your firm. Enclosed are the materials to which Jerry D'Avanzo referred in his telephone conversation with you yesterday. We ask that your firm review the enclosed materials and dismiss Pita from the cases you have filed for the reason that its talc does not contain asbestos.

Enclosed are affidavits of Charles D. Carter, Director of Joint Ventures and Resources of Englehard Corporation, dated September 20, 1988 and June 19, 1989. Mr. Carter's affidavits demonstrate that Pita's only talc mine was located in Johnson, Vermont, and that Pita ceased producing talc in 1983, when the mine was closed for economic reasons.

Also enclosed is an affidavit by William H. Ashton, who has been involved in investigating and studying the talc industry and talc technology for over 35 years. Mr. Ashton's affidavit summarizes a number of reports and studies of the talc produced at the Johnson, Vermont talc mine that was owned and operated by Pita. The unequivocal conclusion reached by all of these investigations is that talc from the Johnson, Vermont mine, which was Pita's only talc mine, did not contain asbestos.

Included among the various studies and reports referred to in Mr. Ashton's affidavit are two separate 1982 analyses of the talc from the Johnson mine. Both of those analyses concluded, based on (i) scanning electron microscopy and energy dispersive spectroscopy, and (ii) x-ray diffraction analysis and analytical transmission electron microscopy, respectively, that no asbestos

WISE & MARSAC

Ms. Phoebe Corry
January 12, 1990
Page 2

was present. I have also enclosed the report by Dr. F. D. Pooley referred to in paragraph 7 of the Ashton affidavit.

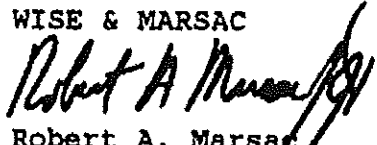
As you may be aware, Pita Realty, sub nom Eastern Magnesia Talc Company, was recently dismissed from the tireworker litigation pending in Pennsylvania based on the enclosed information. A copy of those dismissal orders also are enclosed.

Under the circumstances, while we will file appearances on behalf of our client, we will, unless you request otherwise, defer filing responsive pleadings until we hear from you with respect to the enclosed materials. Further, as per your conversation with Jerry D'Avanzo, we understand that the Motion to Compel Discovery which you have noticed for January 19, 1990, in Wayne County does not apply to Pita.

To the extent you should have any questions regarding the enclosed materials, please do not hesitate to call Jerry D'Avanzo or me. I look forward to hearing from you soon.

Very truly yours,

WISE & MARSAC


Robert A. Marsac

RAM:hrl
Enclosures

cc: David L. Ravid, Esq.
Eric S. Sarnier, Esq.

APPENDIX A, TAB I

*Engelhard-Cleveland
Talc*

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A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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RADIO AND CABLE ADDRESSES
"COTTOPFRANK WASHINGTON"
"COTTOPFRANK NEWYORK"
"COTTOPFRANK PARIS"

WRITER'S DIRECT DIAL NUMBER

(202) 862-8964

March 2, 1990

Re: Ohio Tireworker Litigation

Dear Mr. Brodhead:

I write as national counsel for Eastern Magnesia Talc Company ("EmTal"), a defendant in tireworker cases brought on behalf of plaintiffs represented by your firm. The purpose of this letter is to obtain a response to the request previously made by EmTal's local counsel that you dismiss EmTal from the cases brought by your office.

By letter dated October 2, 1989, EmTal's local counsel, Jack Kluznick, of Weston Hurd Fallon Paisley & Howley, sent to you, in support of our request for a dismissal, an affidavit prepared by William H. Ashton and supporting materials indicating that the talc mined by EmTal did not contain asbestos. A copy of Mr. Kluznick's letter is attached.

It is now five months since you were provided with these materials, yet you have not responded in any way to our request. I must insist on a response to our request for a dismissal based on the Ashton Affidavit and supporting materials. The stays in effect in this litigation present you with the opportunity to review these materials and advise us of your decision.

OFFICE COPY		
	DATE	INITIAL
Served		
Filed		
Signed		
Received		
Exhibit	3/1	MT
Diary		
Charge	3/2	ESS

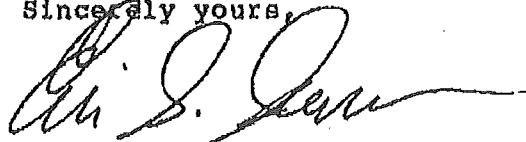
CANILL GORDON & REINDEL

-2-

I urge that you give your fullest consideration to these materials, as plaintiffs' counsel in the Pennsylvania tireworker litigation did. After reviewing these materials, and having plaintiffs' expert, Dr. Art Rohl, review them as well, plaintiffs' counsel in Pennsylvania voluntarily dismissed EMtal from the Pennsylvania litigation. The same result has been obtained in the tireworker litigation in Kansas. On January 16, 1990, plaintiffs' counsel filed a notice voluntarily dismissing a number of defendants, including EMtal. Plaintiffs' counsel in Kansas also had been provided with the Ashton materials. A copy of this notice of dismissal is attached.

Please call me if you have any questions. Since you have already had these materials for five months, I request that you contact me with your response no later than March 15, 1990.

Sincerely yours,



Eric S. Safner

Peter J. Brodhead, Esq.
Spagenberg, Shibley, Traci & Lancione
1500 National City Bank Bldg.
Cleveland, Ohio 44114-3062

[Attachments]

cc: Howard G. Sloane, Esq.
Lester Fliegel, Esq.

VIA FEDERAL EXPRESS

APPENDIX A, TAB J

CAHILL GORDON & REINDEL
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19 RUE FRANÇOIS I^{er}
75008 PARIS, FRANCE

WRITER'S DIRECT DIAL NUMBER
(202) 862-8964

March 2, 1990

Re: Ohio Tireworker Litigation

Dear Mr. Smith:

I write as national counsel for Eastern Magnesia Talc Company ("EmTal"), a defendant in tireworker cases brought on behalf of plaintiffs represented by your firm. The purpose of this letter is to obtain a response to the request previously made by EmTal's local counsel that you dismiss EmTal from the cases brought by your office.

By letter dated January 2, 1990, EmTal's local counsel, Jack Kluznick, of Weston Hurd Fallon Paisley & Howley, sent to you, in support of our request for a dismissal, an affidavit prepared by William H. Ashton and supporting materials indicating that the talc mined by EmTal did not contain asbestos. A copy of Mr. Kluznick's letter is attached.

It is now two months since you were provided with these materials, yet you have not responded in any way to our request. I must insist on a response to our request for a dismissal based on the Ashton Affidavit and supporting materials. The stays in effect in this litigation present you with the opportunity to review these materials and advise us of your decision.

I urge that you give your fullest consideration to these materials, as plaintiffs' counsel in the Pennsylvania tireworker litigation did. After reviewing these materials, and having plaintiffs' expert, Dr. Art Rohl, review them as well,

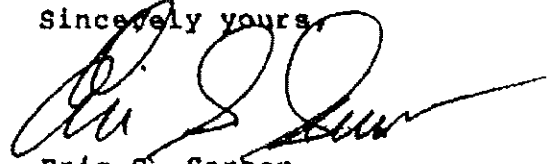
CAHILL GORDON & REINDEL

-2-

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Please call me if you have any questions. Since you have already had these materials for two months, I request that you contact me with your response no later than March 15, 1990.

Sincerely yours,



Eric S. Sarner

A. Russell Smith, Esq.
A. Russell Smith Co., L.P.A.
503 Society Building
159 South Main Street
Akron, Ohio 44308

[Attachments]

cc: Howard G. Sloane, Esq.
Lester Fliegel, Esq.

VIA FEDERAL EXPRESS

APPENDIX A, TAB K

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"COTTOFRANK PARIS"

file
Engelhard -
ArkansasTalc

(202) 862-8964

April 23, 1990

Re: Arkansas Tireworker Litigation

Dear Jim:

I tried unsuccessfully to reach you on a number of occasions last week concerning our request for a dismissal in the Brock action with respect to our client, Eastern Magnesia Talc Company ("EmTal"). On April 20, 1990, I received a message from your secretary informing me that you need to have your expert review the matter.

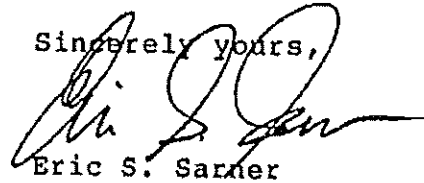
I had assumed from our previous conversations that this had been done, especially when you told me a few months ago that your conclusion was that EmTal should be dismissed on the basis of the materials we provided to you. Regardless, it is now April 23rd and our current extension of time in which to answer or otherwise respond to your clients' Complaint is due to run on April 30th. I trust that you will handle this matter in an expeditious fashion. However, unless you inform me otherwise, I believe that we will need to take an additional extension of time; the only question is whether this extension should be for more than one month. Please contact me immediately at (202) 862-8964 so that we can discuss this matter further.

CAHILL GORDON & REINDEL

-2-

Thank you in advance for your cooperation.

Sincerely yours,



Eric S. Garner

James R. LaFavor, Esq.
Rowland & Rowland, P.C.
Century Building
312 South Gay Street
Knoxville, Tennessee 37902

VIA TELECOPIER & FEDERAL EXPRESS

cc: Howard G. Sloane, Esq.
Lester Fliegel, Esq. (via Federal Express)
Phil Campbell, Esq. (via Federal Express)

APPENDIX A, TAB L

JOHN A WISE
ROBERT A MARRAS
STEPHEN M FLEMING
DARRELL M GRAMS
ERIC M LIPBITT
JOHN M POLLOCK
TED A JOHNSON
JERRY D AVANZO
JAMES D ZAZAKIS
JAMES F KAMP
KAREN E BRIDGES
LISA A ROBINSON
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January 17, 1991

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TELEX 810-881-5371

*ADMITTED IN
NEW YORK ONLY

HAND DELIVERED

John L. Christensen, Esq.
Lopatin, Miller, Freedman, Bluestone,
Erlich, Rosen & Bartnick
1301 East Jefferson Avenue
Detroit, Michigan 48207-3119

Re: Tireworker Litigation - Pita Realty Limited

Dear Mr. Christensen:

We understand that you have recently taken over responsibility for the tireworker cases brought against, inter alia, our client, Pita Realty Limited ("Pita"). Nearly one year ago, on January 12, 1990, we forwarded to Phoebe Corry of your office a request for a voluntary dismissal accompanied by an affidavit prepared by William Ashton setting forth the mineral content of our client's talc. A copy of that letter is enclosed.

Our client's talc came from the only mine it owned - a single mine located in Johnson, Vermont which was operated from 1967 to 1983. As the Ashton Affidavit and accompanying materials indicate, the talc from this mine was free of asbestos. Indeed, the very study upon which you rely in these cases - the NIOSH "Analysis of Talc by X-Ray Diffraction and Polarized Light Microscopy" (see your request for admission number 25) - concluded that Pita's talc (sample number 66) did not contain asbestos or tremolite.

Numerous other counsel involved in the tireworker litigation nationwide have reviewed these materials and have concluded that there is simply no basis for a good-faith claim against our client's product. It is, moreover, clear that the product identification against Pita is quite weak. In light of these facts, we respectfully request that you review these materials and seriously consider our request for a voluntary dismissal without prejudice.

WISE & MARSAC

John L. Christensen, Esq.
January 17, 1991
Page 2

We share the view expressed in Mr. Schimers' December 18, 1990 letter that the parties should avoid needless motion practice. To that end, we have made every effort to advise you of the lack of a good-faith basis for maintaining these actions against Pita. Nothing in your pleadings or brochures argues persuasively otherwise. Accordingly, we ask that you seriously consider our request for a dismissal with prejudice. We are available to discuss these matters with you in further detail at your convenience, and propose that we sit down to discuss these matters in person after you have had an opportunity to review our request. We are available to meet with you on the morning of January 30, 1991, prior to the conference scheduled before Judge Harwood.

Sincerely yours,

WISE & MARSAC



Robert A. Marasc

RAM/ldf

Enclosure

bcc: Eric S. Sarner, Esq.
Howard Sloan, Esq.
Darrell M. Grams, Esq.

APPENDIX A, TAB M

CAHILL GORDON & REINDEL
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75008 PARIS, FRANCE

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'COTTOFRANK WASHINGTON'
'COTTOFRANK NEWYORK'
'COTTOFRANK PARIS'

WRITER'S DIRECT DIAL NUMBER

(202) 862-8964

June 25, 1991

Re: Montgomery/Summit County
Tireworker Litigation

Dear David:

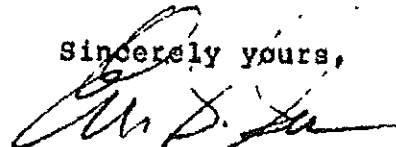
This letter will confirm our conversations and understanding to date concerning my client, Eastern Magnesia Talc Company.

Based on your review of the materials previously forwarded, you have agreed, on behalf of the former tire and rubber workers represented by your firm, to dismiss my client from all of the cases pending in Montgomery and Summit Counties brought by your firm.

I am in the process of drafting a dismissal agreement that reflects your stated need to refile should you be able to demonstrate that the talc sold by my client contained asbestos. I will be forwarding a draft to you in the next few days.

Please contact me immediately if the above does not accurately reflect our understanding.

Sincerely yours,



Eric S. Sarner

David I. Shroyer, Esq.
Michael F. Colley Co., L.P.A.
536 S. High Street
Columbus, Ohio 43215

VIA FEDERAL EXPRESS

cc: Lester Fliegel, Esq.
Howard G. Sloane, Esq.
Allen S. Joslyn, Esq.

APPENDIX A, TAB N

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SUSAN BUCKLEY
KEVIN J. BURKE
R. KEVIN CASTEL
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WALTER C. CLIFF, P.C.
BENJAMIN J. COHEN
JOSEPH A. CONWAY
MARSHALL COX
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W. LESLIE DUFFY
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GIRO A. GAMBONI
CHARLES A. GILMAN
STEPHEN A. GREENE
ROBERT H. HALLMAN
EDWARD A. HANSEN
WILLIAM H. HARTNETT
THOMAS R. JONES
ALLEN S. JOSLYN
THOMAS J. KAVALER
VINCE A. KOBIRIN
ANUEL KOHN
ARD R. KRUGMAN
WILLIAM T. LIFLAND
MICHAEL MACRIS

JONATHAN I. MARK
RAND MCQUINN*
GERARD M. HEISTRELL
ROGER MELTZER
CLIFFORD L. MICHEL
JOHN P. MITCHELL
MATHIAS E. MONE
DONALD J. MULVIHILL
KENNETH W. ORGE
ROY L. REGOZIN
RICHARD L. REINHOLD
DEAN RINGEL
THORN ROSENTHAL
RICHARD J. SABELLA
H. RICHARD SCHUMACHER
JOHN SCHUSTER
LAURENCE A. SILVERMAN
HOWARD G. SLOANE
LAURENCE T. SORKIN
LEONARD A. SPIVAK
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MICHAEL R. TIERNEY
ROBERT USADI
JOHN R. VAUGHAN
GEORGE WAILAND
GLENN J. WALDRIP, JR.
RALPH O. WINGER
GARY W. WOLF
JOHN R. YOUNG
DANIEL J. ZUBROFF

RAYMOND L. FALLS, JR.
DAVID R. HYDE
DENIS MCINERNEY, R.C.
IRWIN SCHNEIDERMAN
SENIOR COUNSEL

CORYDON B. DUNHAM
SAMUEL ESTREICHER
MICHAEL S. SACKHEIM
JEFFREY E. SHAPIRO
JOHN J. STANTON, JR.
COUNSEL

FREDDY DRESSEN**
EUROPEAN COUNSEL

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*ADMITTED D.C. ONLY
**ADMITTED FRANCE ONLY
TELEPHONE 212-701-3000
WRITER'S DIRECT NUMBER

October 2, 1991

(212) 701-3321

Re: Wayne County Tireworkers Cases

Dear Steve:

I write to confirm our oral request that you voluntarily dismiss the claims of the 12 plaintiffs in the January, 1992 trial pool against Pita Realty, subject to the same tolling agreement as we entered into with respect to the cases in the July, 1991 trial pool. The agreement with respect to the July, 1991 trial pool provided that those plaintiffs could reassert claims against Pita only if their "medical and scientific experts attest, by sworn affidavit, that a non-asbestos-form talc product was a substantial contributing cause of the injuries allegedly suffered by Plaintiffs or Plaintiffs' Descendants". The dismissal followed our demonstration that (i) Pita's talc did not contain asbestos -- as your own expert, Dr. Rohl, agreed, and that (ii) the condition of the plaintiffs was not attributable to talc which did not contain asbestos -- as your expert, Dr. Demers, testified. A third factor was the lack of product identification.

Despite this dismissal of all the July, 1991 plaintiffs, I understand that you told my partner Allen Joslyn that you are unwilling to dismiss the January, 1992 plaintiffs. The reason you gave for this change in position was the deposition of Roger Miller, which you claimed establishes that there was asbestos at the Eastern Magnesia Talc mine. Having re-read that testimony, I cannot find any such indication. Mr. Miller testified that (i) EMTal operated only one mine -- the Johnson mine (p. 10); and (ii) he never saw chrysolite, tremolite, actinolite

CAHILL GORDON & REINDEL

-2-

or pyrophyllite in the EMTal mine (p. 37). Mr. Miller also testified (in response to your question):

"The Witness: In our examination to control the quality of the products, we looked for any extraneous mineral and asbestos happens to be a readily easily identified mineral in hand specimens and fine powders. While there was no specific directive to do that, I believe that our quality control that we used to regulate the operations were such that we would not have missed asbestos if it were present." (p. 60)

Finally, Mr. Miller endorsed Chidester's analysis as the most definitive source about what was in the ore body.

In short, there is no good faith basis for the continuation of the 1992 plaintiffs' cases against Pita. We will have to decide soon whether to commence full scale litigation with respect to them. I await either your agreement to dismiss the January, 1992 plaintiffs against Pita, or demonstration of a good faith basis for your refusal to do so. Please call me or my partner, Allen Joslyn, to discuss this.

Very truly yours,



Howard G. Sloane

Steve Kaufman, Esq.
Lopatin, Miller
1301 East Jefferson Avenue
Detroit, Michigan 48209-3119

APPENDIX A, TAB O

CAHILL GORDON & REINDEL
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BENJAMIN J. COHEN
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H. RICHARD SCHUMACHER
JOHN SCHUSTER
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JEFFREY E. SHAPIRO
JOHN J. STANTON, JR.
COUNSEL

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FACSIMILE 212-269-5420

*ADMITTED D.C. ONLY
**ADMITTED FRANCE ONLY

212-270-1340

WRITER'S DIRECT NUMBER

October 31, 1991

Re: Summit County Asbestos/Tireworker
Litigation

Dear Mr. Nace:

In response to your letter of October 4, 1991, you are perfectly aware of our position, since, in an effort to demonstrate the lack of justification for this suit, on January 2, 1990, we supplied you with copies of the documents which form its basis. If you have misplaced them, please let me know and I will send another set.

The answer is, of course, that even with your expanded definition, Pita did not mine, mill or sell "asbestos". Now that you have our answer, which demonstrates the lack of any basis for these suits against Pita, please dismiss the claims against it.

Sincerely yours,


Allen S. Joslyn

R. Bryan Nace, Esq.
Laybourne, Smith, Gore & Goldsmith
159 South Main Street, Suite 503
Akron, Ohio 44308-1317

cc: Jack Kluznik, Esq.

APPENDIX A, TAB P

CAHILL GORDON & REINDEL

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

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"COTTOFRANK NEWYORK"

"COTTOFRANK PARIS"

FACSIMILE 202-862-8958

WHITTEN'S DIRECT DIAL NUMBER

(202) 862-8941

April 23, 1992

Re: Cuyahoga County Tireworker Actions

Dear Mr. Economus:

I enjoyed speaking with you on Monday. As we discussed, this firm is of counsel to Engelhard Corporation ("Engelhard"), which is named as a defendant in three tireworker cases that you recently filed in the Cuyahoga County Court of Common Pleas.^{1/} You indicated that Engelhard is named as a defendant in these cases because its former subsidiary, Eastern Magnesia Talc Company ("EmTal"), allegedly sold talc to plaintiffs' employers. EmTal operated a single talc mine in Johnson, Vermont between October 1967 and 1973.

This letter is to request that you voluntarily dismiss Engelhard from these three tireworker actions, on the basis that talc produced by EmTal contained no asbestos. I am enclosing the following documents supporting this request:

- (1) A copy of an Affidavit prepared by William H. Ashton dated May 8, 1989, with attached Exhibits A through G;
- (2) A copy of an Affidavit by Charles D. Carter dated September 20, 1988;
- (3) A copy of an Affidavit by Charles D. Carter dated June 19, 1989;
- (4) A copy of a report prepared by Dr. F. D. Pooley concerning an examination of talc samples taken from the Johnson, Vermont mine; and

1/ Namely, these actions are Clay C. Compton, et al. v. Abex Corp. et al., Case No. 92-229107-CV; Charles L. Williams, et al. v. Abex Corp. et al., Case No. 92-229108-CV; and Lloyd W. Brown, et al. v. Abex Corp., et al., Case No. 92-229393-CV.

CAHILL GORDON & REINDEL

- 2 -

- (5) A copy of a B.F. Goodrich specification sheet dated November 10, 1978 for EmTal 500 talc.

In reviewing these documents, you will note that EmTal's (and, accordingly, Engelhard's) only talc mine was located in Johnson, Vermont, and that EmTal produced talc from that mine only from October 1967, when EmTal acquired the mine, until 1983, when the mine was closed for economic reasons. (See Carter Affidavits.) The Affidavit of William H. Ashton summarizes numerous investigations, examinations, and studies of the Johnson mine. The conclusion derived from all of these studies is that the talc produced from this mine did not contain asbestos. A sample from the Johnson talc mine was analyzed in 1982 using scanning electron microscopy and energy dispersive spectroscopy, as well as x-ray diffraction analysis and analytical transmission electron microscopy. The analysis revealed that no asbestos was present in the sample. (See Ashton Affidavit paragraph 7.)

Under the circumstances, there appears to be no basis for maintaining Engelhard as a named defendant in these actions. I am sure that you can appreciate that considerable expense has been and will be incurred by Engelhard as a defendant in these cases, and that this dismissal request merits immediate attention.

There is substantial precedent for my request. For example, Engelhard and EmTal were named as defendants in 28 cases brought on behalf of former tireworkers at the B.F. Goodrich plant in Oaks, Pennsylvania and filed in the Eastern District of Pennsylvania. The enclosed documents were provided to Jeffrey C. Schwartz of the Allen L. Rothenberg law firm in Philadelphia and were reviewed by plaintiffs' expert, Dr. Arthur Rohl. After this review, Mr. Schwartz voluntarily dismissed Engelhard and EmTal from that litigation.

EmTal has also been voluntarily dismissed from tireworker litigation in, inter alia, the District of Kansas and Michigan state court. Those plaintiffs' counsel had also been provided with the Ashton materials described above.

CAHILL GORDON & REINDEL

- 3 -

I look forward to speaking with you further once you have had an opportunity to review the enclosed materials. If any additional information would assist you in your decision, please call me directly.

Very truly yours,



Scott A. Martin

Dale S. Economus, Esq.
Bevan & Economus
10360 Northfield Road
Northfield, Ohio 44067

[Enclosures]

VIA FEDERAL EXPRESS

bcc: Howard G. Sloane, Esq. (w/o enclosures)
Allen S. Joslyn, Esq. (w/o enclosures)
Mr. Michael D. Sullivan (w/o enclosures)

APPENDIX A, TAB Q

CAHILL GORDON & REINDEL

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

1990 K STREET, N. W.
WASHINGTON, D. C. 20006

EIGHTY PINE STREET
NEW YORK, N.Y. 10005

TELEPHONE 202-862-8900

RADIO AND CABLE ADDRESSES

"COTTOFRANK WASHINGTON"

"COTTOFRANK NEWYORK"

"COTTOFRANK PARIS"

FACSIMILE 202-862-8955

19 RUE FRANÇOIS IER
75008 PARIS, FRANCE

WRITER'S DIRECT DIAL NUMBER

(202) 862-8941

May 18, 1992

Re: Cuyahoga County Tireworker Actions

Dear Mr. Economus:

On April 23, 1992, I wrote to you to request dismissal from three tireworker cases recently filed by your office naming Engelhard Corporation as a defendant. As you recall, Engelhard was named in those cases because its former subsidiary, Eastern Magnesia Talc Company ("EmTal"), allegedly sold talc to plaintiffs' employers. Enclosed with my letter last month were various documents demonstrating that talc produced by EmTal from its sole mine and mill in Johnson, Vermont contained no asbestos. I trust that you have had an opportunity to review those documents. If you have misplaced any of those materials or feel that more information would assist you in your decision regarding our dismissal request, please let me know.

Last week I received a copy of the Complaint in Gonzalez v. Abex Corp., et al., Case No. 92-231225-CV, which also names Engelhard as a defendant. Obviously, we would like to avoid incurring additional expenses in defense of the four actions which now name Engelhard when under the circumstances there appears to be no basis in fact for maintaining Engelhard as a defendant. Accordingly, I request that you give serious and

CANILL GORDON & REINDEL

-2-

prompt consideration to our dismissal request. If you would like to discuss this matter further, please call me directly at any time.

Very truly yours,



Scott A. Martin

Dale S. Economus, Esq.
Bevan & Economus
10360 Northfield Road
Northfield, Ohio 44067

VIA FEDERAL EXPRESS

APPENDIX A, TAB R

CAHILL GORDON & REINDEL

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ROBERT A. ALESSI
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P. KEVIN CASTEL
JAMES J. CLARK
WALTER C. CLIFF, P.C.
BENJAMIN J. COHEN
JOSEPH P. CONWAY
MARSHALL COX
THOMAS F. CURRIN
W. LESLIE DUFFY
PATRICIA FARREN
BART FRIEDMAN
CIRO A. GAMBONI
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ROBERT H. HALLMAN
WILLIAM H. HARTNETT
THOMAS R. JONES
ALLEN S. JOSLYN
THOMAS J. KAVALER
LAWRENCE A. KOBIRIN
ABRAHAM KOHN
HAROLD P. KRUGMAN
LIAM T. LIFLAND
MICHAEL MACRIS
JONATHAN I. MARK

RAND MCQUINN*
GERARD M. MEISTRELL
ROGER MELTZER
CLIFFORD L. MICHEL
JOHN P. MITCHELL
MATTHIAS E. MONE
DONALD J. MULVIHILL
KENNETH W. ORCE
ROY L. REGOZIN
RICHARD L. REINHOLD
DEAN RINGEL
THORN ROSENTHAL
RICHARD J. SABELLA
H. RICHARD SCHUMACHER
JOHN SCHUSTER
LAURENCE A. SILVERMAN
HOWARD G. SLOANE
LAURENCE T. SORKIN
LEONARD A. SPIVAK
GERALD S. TANENBAUM
JONATHAN D. THIER
MICHAEL P. TIERNEY
ROBERT USADI
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PHILIP A. HEIMOWITZ
MICHAEL S. SACKHEIM
JEFFREY E. SHAPIRO
JOHN J. STANTON, JR.
COUNSEL

FREDDY DRESSEN**
EUROPEAN COUNSEL

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75006 PARIS, FRANCE

TELEX / CABLE
RCA 232184 WUT 127068
CAGO UN COTTOFRANK NYK
FACSIMILE 212-269-3420

*ADMITTED D.C. ONLY
**ADMITTED FRANCE ONLY

TELEPHONE 212-701-3000
WRITER'S DIRECT NUMBER
(212) 701-3321

August 4, 1992

Re: Akron Tireworker Litigation

Dear Russ and Brian:

We recently learned that your firm voluntarily dismissed Windsor Minerals, Inc. from the Akron cases some time ago after reviewing an affidavit supplied by Windsor. Our client, Eastern Magnesia Talc, bought precisely the same mining operations from Windsor in 1967 and operated them until 1983. The Windsor affidavit attests to the fact that "all of the talc mined by Windsor Minerals, Inc. has been regularly sampled and tested for the presence of asbestos. No evidence of the presence of asbestos in Windsor Minerals, Inc.'s product has ever been revealed by this testing". (Copies of the affidavit and dismissal stipulations are enclosed).

In light of your dismissal of the predecessor owner and operator of these mining operations, Windsor, we urge you to voluntarily dismiss EMTal from the remaining Akron cases on the same basis. As I have indicated to you in the past, similar

CAHILL GORDON & REINDEL

-2-

orders have been signed by plaintiffs' counsel in numerous jurisdictions around the country after concluding that there was no asbestos in the EMTal product.

Very truly yours,


Howard G. Sloane

A. Russell Smith, Esq.
Brian R. Nace, Esq.
Laybourne, Smith, Gore
& Goldsmith
503 Society Building
159 South Main Street
Akron, Ohio 44308-1317

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

FAYE MILLER, Individually	:	CASE NO. ACV884-1087
and as Administratrix of the	:	JUDGE CARROLL
Estate of ROBERT R. MILLER,	:	
Deceased, 3026 Lake James	:	
Terrace, Akron, Ohio 44312	:	
Plaintiff,	:	
	:	<u>AFFIDAVIT</u>
vs.	:	
A.C. & S., INC., et al.	:	
Defendants.	:	

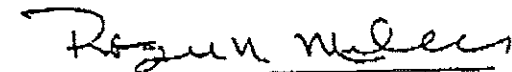
ROGER N. MILLER, being duly sworn, according to law,
upon his oath, deposes and says:

1. I am the President of Windsor Minerals, Inc. and
have held that position since 1968 when Windsor Minerals, Inc.
was first formed.

2. The exclusive business of Windsor Minerals, Inc. is
and has been the mining and milling of talc from a single
mining district in Windsor, Vermont. In addition, Windsor
Minerals, Inc. also sells a portion of its product to
independent industrial users for manufacturing purposes.
Windsor Minerals, Inc. never sold any of its product to
distributors or agents for resale.

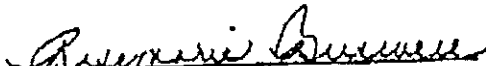
3. Windsor Minerals, Inc. has never sold any of its product to the General Tire and Rubber Company in Akron, Ohio, or any other tire manufacturing facility or rubber company.

4. All of the talc mined by Windsor Minerals, Inc. has been regularly sampled and tested for the presence of asbestos. No evidence of the presence of asbestos in Windsor Mineral, Inc.'s product has ever been revealed by this testing.



ROGER N. MILLER

Sworn to and subscribed
before me this 1st
day of July, 1988.



Notary Public

APPENDIX A, TAB S

CHRON

CAHILL GORDON & REINDEL
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

1990 K STREET, N. W. .
WASHINGTON, D. C. 20006

TELEPHONE 202-858-8900

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NEW YORK, N.Y. 10005

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75008 PARIS, FRANCE

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'COTTOPRANK WASHINGTON'

'COTTOPRANK NEW YORK'

'COTTOPRANK PARIS'

FACSIMILE 202-858-8999

WRITER'S DIRECT DIAL NUMBER

202-862-8941

December 4, 1992

1

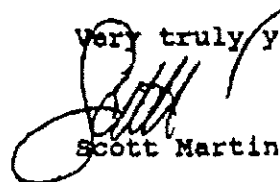
Re: Tireworker Litigation

Dear Tom:

I enjoyed the opportunity to discuss the tireworker cases with you today. As I mentioned on the phone, all tests of EMTAL talc and surveys of the sole mine and mill operated by Eastern Magnesia Talc Company, located in Johnson, Vermont, have determined that the talc produced from the Johnson mine contained no asbestos. The Affidavit of William H. Ashton, a copy of which I enclose for your reference, summarizes this evidence.

Please call if you have any questions regarding the enclosed material.

Very truly yours,


Scott Martin

Thomas F. Martello, Esq.
Michael F. Colley Co., L.P.A.
536 South High Street
Columbus, Ohio 43215

[Enclosure]

APPENDIX A, TAB T

CAHILL GORDON & REINDEL

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

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RADIO AND CABLE ADDRESSES

"COTTOFRANK WASHINGTON"

"COTTOFRANK NEWYORK"

"COTTOFRANK PARIS"

FACSIMILE 202-862-8958

WRITER'S DIRECT DIAL NUMBER

(202) 862-8941

December 21, 1992

Re: Cuyahoga County Tireworker Actions

Dear Mr. Economus:

To confirm our telephone conversation this afternoon, you have agreed to respond by Thursday, December 31, 1992 to Engelhard Corporation's request for dismissal from five tireworker cases filed by your office this year. As you know, Engelhard's answer to the most recent complaint, James v. Abex Corp., is due the first week of January 1993.

Engelhard was named in these cases solely because its former subsidiary, Eastern Magnesia Talc Company ("EMTal") allegedly sold talc to plaintiffs' employers. As demonstrated in the various affidavits and other documents forwarded to you with my previous correspondence, talc produced by EMTal from its sole mine and mill in Johnson, Vermont contained no asbestos. The alleged diagnosis of the plaintiff in each of the actions in which Engelhard is named as a defendant is an asbestos-related disease, which cannot be attributed to EMTal talc.

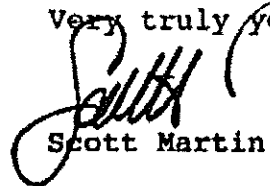
If you require additional copies of any of the materials previously sent to you, please let me know as soon as possible. If I am out of the office, please feel free to discuss this

CAHILL GORDON & REINDEL

-2-

matter with Peter Sloane in our New York office, whose direct line is 212-701-3321. I look forward to hearing from you.

Very truly yours,



Scott Martin

Dale S. Economus, Esq.
Bevan & Economus
10360 Northfield Road
Northfield, Ohio 44067

VIA FACSIMILE & MAIL

APPENDIX A, TAB U

CAHILL GORDON & REINDEL

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75008 PARIS, FRANCE

RADIO AND CABLE ADDRESSES

'COTTOFRANK WASHINGTON'

'COTTOFRANK NEWYORK'

'COTTOFRANK PARIS'

FACSIMILE 202-862-8958

WRITERS DIRECT DIAL NUMBER

202-862-8941

February 4, 1993

Re: Cuyahoga County Tireworker Actions

Dear Tom:

As you requested last month, I have prepared and am enclosing notices of dismissal for your signature and filing regarding the dismissal of Engelhard Minerals & Chemicals Company from five recently-filed tireworker actions in Cuyahoga County, on the basis of our correspondence demonstrating that talc produced by Engelhard's former subsidiary, Eastern Magnesia Talc Company ("EMTalc"), contained no asbestos. I apologize for the delay in getting these documents to you, but I have been caught up in a trial out of town for the last four weeks.

As you probably already know, four of the five actions have been removed to federal court by Canadian defendants. The dismissals for these four actions should be filed with the clerk of the United States District Court for the Northern District of Ohio (the federal docket numbers are noted on the notices of dismissal) for entry by Judge Lambros, and a copy should be sent to Judge Charles R. Weiner of the United States District Court for the Eastern District of Pennsylvania, as the cases have now entered the Multidistrict Litigation. I am informed by the clerk for the Cuyahoga County Court of Common Pleas that no notice of removal has been filed for the most recent case, Anthony James, and accordingly the notice of dismissal for that case should be filed in state court.

Finally, I note that EMTalc's former distributor, C.P. Hall Company, is named in these actions as well. If C.P. Hall is named only as a distributor of EMTalc talc, then C.P. Hall should be dismissed as well. To the extent, however, that C.P. Hall is also named as a defendant for having sold or distributed other products to the plants at issue, I will understand C.P. Hall's continued presence in the litigation not to be attributable to sales or distribution of EMTalc talc. Please let me know which of the above is the case.

Thank you again for your attention to these matters. Please return copies of the signed notices of dismissal in the

CANILL GORDON & REINDEL

-2-

enclosed self-addressed postpaid envelope, and call me directly if you have any questions. Best regards.

Very truly yours,



Scott Martin

Thomas W. Bevan, Esq.
10360 Northfield Road
Northfield, Ohio 44067

[Enclosures]

VIA FEDERAL EXPRESS

APPENDIX A, TAB V

CARILL GORDON & REINDEL
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

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NEW YORK, N.Y. 10005

19 RUE FRANÇOIS I^{er}
75008 PARIS, FRANCE

WRITER'S DIRECT DIAL NUMBER
202-862-8941

RADIO AND CABLE ADDRESSES
"COTTOFRANK WASHINGTON"
"COTTOFRANK NEWYORK"
"COTTOFRANK PARIS"
FACSIMILE 202-862-8950

February 22, 1993

Re: Cuyahoga County Tireworker Actions

Dear Tom:

I am pleased to respond to your letter dated February 11, 1993, concerning dismissal of Engelhard Corporation from five recently-filed actions. The February 24, 1950 letter you enclosed should in no way alter your previously expressed decision to dismiss Engelhard from these cases.

The company referenced in the 1950 correspondence is not our client, nor was it owned by our client. That company in fact operated several mines in both Waterbury and Johnson, Vermont, and the letter does not indicate from which of those locations workers may have been x-rayed. I do not know of any follow-up study or publication relating to workers at either of those locations, and that company is long since defunct. Regardless, Engelhard's former subsidiary operated only a Johnson, Vermont mine, and, in fact, did not begin that mining and milling operation until seventeen years later, from October 1967 until 1983.

Beginning with my first request for dismissal last April, I sent your firm voluminous materials concerning the Johnson mine. In reaching your decision to dismiss Engelhard, your firm reviewed, *inter alia*, the Affidavit of William H. Ashton, which summarizes numerous investigations, examinations, and studies of the Johnson mine. The conclusion derived from all of these studies is that the talc produced from this mine did not contain asbestos. The only analysis which we have not previously forwarded to you is one just completed by the R.J. Lee Group which showed no evidence of asbestos minerals nor of their non-fibrous analogs, and found the talc to be a platy, non-fibrous variety. I should add that among the witnesses we have retained on this point is the leading geologist in Vermont, who will also confirm these facts.

In sum, there is no basis for maintaining Engelhard as a named defendant in these actions. These plaintiffs allege injuries as a result of exposure to asbestos and "asbestos


CAHILL GORDON & REINDEL

-2-

products" in the course of their employment. The plaintiffs' own diagnosing physicians do not attribute findings compatible with pneumoconiosis, if any, or any other conditions, to talc uncontaminated by asbestos. Accordingly, EMTal talc is not a cause of plaintiffs' alleged injuries.

Tom, I trust that this letter addresses any questions raised by the 1950 correspondence. If you still have concerns or would like to discuss the matter further, please call me directly. Thanks again for your attention to this matter.

Very truly yours,


 Scott Martin

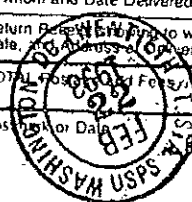
Thomas W. Bevan, Esq.
 Bevan & Economus
 10360 Northfield Road
 Northfield, Ohio 44067

VIA FACSIMILE AND CERTIFIED MAIL

P 733 820 36A
 RECEIPT FOR CERTIFIED MAIL
 NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

Sent to		Thomas W. Bevan
Street and No.		10360 Northfield Rd.
P.O., State and ZIP Code		Northfield, Ohio 44067
Postage		\$ 29
Certified Fee		15
Special Delivery Fee		1
Restricted Delivery Fee		
Return Receipt showing to whom and Date Delivered		1
Return Receipt showing to whom, Date, and Address of Delivery		
TOTAL POSTAGE AND FEES		\$ 29
Postmark or Date		

PS Form 3800, June 1985



APPENDIX A, TAB W

CAHILL GORDON & REINDEL
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

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75008 PARIS, FRANCE

RADIO AND CABLE ADDRESSES
"COTTOFRANK WASHINGTON"
"COTTOFRANK NEWYORK"
"COTTOFRANK PARIS"
FACSIMILE 202-662-8958

WRITER'S DIRECT DIAL NUMBER

202-862-8941

August 24, 1994

Re: Linda R. Ludwig v. Armstrong World Indus., Inc., et al.
Case No. AC 94-02-0617

Dear Mr. Foley:

Thank you very much for discussing this case with me today. As I stated, this firm represents the former Eastern Magnesia Talc Company ("EMTalc"), a defendant named but unserved in both this action and the predecessor Ludwig case. By this letter, EMTalc in no way waives service or its defense on statute of limitations grounds. However, I believe it will be useful to discuss EMTalc talc at this time, in light of the presence in this case of the C.P. Hall Company, a distributor of EMTalc talc.

This letter is to request that you voluntarily dismiss EMTalc -- and C.P. Hall to the extent that claims against it are based upon distribution of EMTalc talc -- from this action, on the basis that talc produced by EMTalc contains no asbestos. I am enclosing the following documents supporting this request:

- (1) A copy of an affidavit prepared by William H. Ashton dated May 8, 1989, with attached Exhibits A through G;
- (2) A copy of an affidavit by Charles D. Carter dated September 20, 1988;
- (3) A copy of an affidavit by Charles D. Carter dated June 19, 1989;

CARILL GORDON & REINDEL

-2-

- (4) A copy of a report prepared by Dr. F.D. Pooley concerning an examination of talc samples taken from EMTal's mine in Johnson, Vermont; and
- (5) A copy of a B.F. Goodrich specification sheet dated November 10, 1978 for EMTal 500 talc.

In reviewing these documents, you will note that EMTal's only talc mine was located in Johnson, Vermont, and that EMTal produced talc from that mine only from October 1967, when it acquired the mine, until 1983, when the mine was closed for economic reasons. (See Carter affidavits.) The affidavit of William H. Ashton summarizes numerous investigations, examinations, and studies of the Johnson mine. The conclusion derived from all of these studies is that the talc produced from this mine did not contain asbestos. A sample from the Johnson talc mine was analyzed in 1982 using scanning electron microscopy and energy dispersive spectroscopy, as well as x-ray diffraction analysis and analytical transmission electron microscopy. The analysis revealed that no asbestos was present in the sample. (See Ashton affidavit at paragraph 7.)

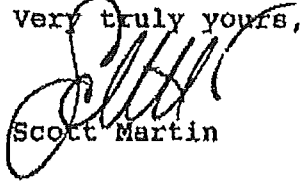
Under the circumstances, I am sure you will agree that there is no good faith basis for maintaining EMTal (or C.P. Hall, to the extent a claim is based upon EMTal talc) as a named defendant in the action. As you recognize and your medical experts will agree, there is no link between pure talc uncontaminated by asbestos and lung cancer, the injury of which the deceased plaintiff-tireworker Mr. Ludwig complains. I know that you appreciate the considerable expense that would be incurred defending this action as it proceeds through Judge Victor's case management plan to the summary judgment stage, and that this dismissal request therefore merits prompt attention.

There is substantial precedent for my request. For example, EMTal was named as a defendant in 28 cases brought on behalf of former tireworkers at the B.F. Goodrich plant in Oaks, Pennsylvania, and filed in the Eastern District of Pennsylvania. The documents enclosed herewith were provided to Jeffrey C. Schwartz of the Allen L. Rothenberg law firm in Philadelphia and were reviewed by plaintiffs' expert Dr. Arthur Rohl. After such review, plaintiffs voluntarily dismissed EMTal from that litigation. EMTal has also been voluntarily dismissed from tireworker litigation in, inter alia, the District of Kansas and Michigan state court. Those plaintiffs' counsel were also provided with the materials described above.

CAHILL GORDON & REINDEL

-3-

I look forward to speaking with you further once you have had an opportunity to review the enclosed materials. If any additional information would assist you in your decision, please call me directly at any time. I would very much appreciate it if we could be in touch before depositions for this case begin in the middle of September. Again, thank you for your consideration.

Very truly yours,

Scott Martin

Stephen C. Foley, Esq.
Robert E. Sweeney Co., L.P.A.
55 Public Square
1500 Illuminating Building
Cleveland, Ohio 44113

FEDERAL EXPRESS

[Enclosures]

APPENDIX A, TAB X

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JAMES J. CLARK
WALTER C. CLIFF, P.C.
BENJAMIN J. COHEN
MARSHALL COX
THOMAS F. CURNIN
W. LESLIE DUFFY
PATRICIA FARREN
JOAN MURTAGH FRANKEL
BART FRIEDMAN
CIRO A. GAMBONI
WILLIAM B. GANNETT
CHARLES A. GILMAN
STEPHEN A. GREENE
ROBERT M. HALLMAN
WILLIAM M. HARTNETT
THOMAS R. JONES
ALLEN S. JOSLYN
THOMAS J. KAVALER
LAWRENCE A. KOBRIN
IMMANUEL KOHN
EDWARD P. KRUGMAN
GEOFFREY E. LIEBMANN
WILLIAM T. LIFLAND

MICHAEL MACRIS
JONATHAN I. MARK
GERARD M. MEISTRELL
ROGER MELTZER
CLIFFORD L. MICHEL
JOHN P. MITCHELL
MATHIAS E. MONE
DONALD J. MULVIHILL
KENNETH W. ORCE
ROY L. REGOZIN
RICHARD L. REINHOLD
DEAN RINGEL
THORN ROSENTHAL
RICHARD J. SABELLA
JONATHAN A. SCHAFFZIN
H. RICHARD SCHUMACHER
JOHN SCHUSTER
LAURENCE A. SILVERMAN
HOWARD G. SLOANE
LAURENCE T. SORKIN
LEONARD A. SPIVAK
GERALD S. TANENBAUM
JONATHAN D. THIER
MICHAEL P. TIERNEY
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GEORGE WAILAND
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DANIEL J. ZUBKOFF

JOSEPH P. CONWAY
DAVID R. HYDE
DENIS MCINERNEY
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JOHN R. VAUGHAN
RALPH O. WINGER
SENIOR COUNSEL

CORYDON B. DUNHAM
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PHILIP A. HEIMOWITZ
JAMES J. REILLY
JOHN J. STANTON, JR.
COUNSEL

FREDDY DRESSEN*
EUROPEAN COUNSEL

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75008 PARIS, FRANCE

TELEX / CABLE
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FACSIMILE 212-269-5420

*ADMITTED FRANCE ONLY

TELEPHONE 212-701-3000

WRITER'S DIRECT NUMBER

(212) 701-3319

October 25, 1996

Re: Motta v. Whittaker, Clark & Daniels,
et al., No. 96-4434B

Dear Robin:

I enjoyed speaking with you yesterday. As I stated, this firm represents Engelhard Corporation ("Engelhard"), which is named as a defendant in the above-referenced action which you recently filed in the Superior Court for Suffolk County. The complaint alleges the wrongful death of plaintiff's decedent Thomas Motta as a result of exposure to talc while he was employed at Plymouth Rubber Company.

Engelhard's only connection with the mining, milling, or sale of talc was through a subsidiary, Eastern Magnesia Talc Company ("EMTalc"), which operated a single mine in Johnson, Vermont from October 1967 until 1983, when the mine was closed for economic reasons. As we discussed, this letter is to request that you voluntarily dismiss Engelhard from this action, on the basis that talc produced by EMTalc at its sole mine contained no asbestos and therefore could not have caused Mr. Motta's death. I am enclosing the following documents supporting this request:

CAHILL GORDON & REINDEL

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- (1) a copy of an affidavit prepared by William H. Ashton dated May 8, 1989, with attached Exhibits A through G;
- (2) copies of affidavits by Charles D. Carter dated September 20, 1988 and June 19, 1989;
- (3) a copy of a report prepared by Dr. F.D. Pooley concerning an examination of talc samples taken from the Johnson, Vermont mine; and
- (4) a copy of a B.F. Goodrich specification sheet for EMTal 500 Talc dated November 10, 1978.

The Carter affidavits confirm that the Johnson talc mine was the only one ever owned or operated by Engelhard. The Ashton Affidavit summarizes numerous investigations, examinations, and studies of this Johnson mine. The conclusion derived from all of these studies is that the talc produced from the mine did not contain asbestos. Indeed, a sample from the Johnson talc mine was analyzed in 1982 by Dr. Pooley, one of the world's foremost authorities on the identification of asbestos, using scanning electron microscopy and energy dispersive spectroscopy, as well as x-ray diffraction analysis and analytical transmission electron microscopy. The analysis revealed that no asbestos was present in the sample. See Ashton Affidavit paragraph 7 and Dr. Pooley's report. Industry testing of the EMTal talc by B.F. Goodrich confirms the incontrovertible findings of these experts: EMTal talc contained no asbestos.

Under the circumstances, there appears to be no basis for maintaining Engelhard as a defendant in this action. There is no epidemiological evidence whatsoever linking pure talc, uncontaminated by asbestos, to metastatic lung cancer, the cause of Mr. Motta's death. Accordingly, I request that you voluntarily dismiss Engelhard in order that my client be spared further expense in defending this action.

There is substantial precedent for my request. For example, Engelhard and EMTal were named as defendants in 28 cases brought on behalf of former tireworkers at the B.F. Goodrich plant in Oaks, Pennsylvania and filed in the Eastern District of Pennsylvania. The enclosed documents were provided to the Allen L. Rothenberg law firm in Philadelphia and were reviewed by plaintiffs' expert, Dr. Arthur Rohl. After this review, plaintiffs' counsel Jeffrey C. Schwartz voluntarily dismissed Engelhard and EMTal from that litigation. EMTal has also been voluntarily

CAHILL GORDON & REINDEL

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dismissed from tireworker and rubberworker litigation in, inter alia, the District of Kansas and various state courts in Michigan and Ohio. Those plaintiffs' counsel had also been provided with the Ashton materials described above and pursued their actions against other talc and asbestos defendants.

I look forward to speaking with you further once your upcoming trial concludes and you have an opportunity to review the enclosed materials. If any additional information would assist you in your decision, please call me directly. Thank you again for your attention to this matter.

Very truly yours,



Scott Martin

Robin M. Welch, Esq.
Thornton, Early & Naumes
60 State Street, Sixth Floor
Boston, Massachusetts 02109

[Enclosures]

VIA FEDERAL EXPRESS

APPENDIX A, TAB Y

**FORMAN
PERRY
WATKINS
KRUTZ &
TARDY, PLLC**

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Main Facsimile: 601-960-8613
Asbestos Facsimile: 601-960-3241

February 19, 2002

Quentin Daniels
Daniels and Gentry, PLLC
P.O. Box 55848
Jackson, MS 39296-5848

RE: Engelhard Corporation

Dear Quentin:

Please allow this correspondence to serve as a response to your inquiries relating to Engelhard Corporation ("Engelhard") in connection with the Holmes litigation. Pursuant to our telephone conversation and our previous dealings, it is my understanding that you have agreed to treat this information as confidential and utilize it solely for the purpose of a Rule 11 investigation into the validity of filing an asbestos-related complaint against Engelhard.

Engelhard, as in the past, appreciates the opportunity to respond to the two matters you have raised in your conversation with me. The first matter concerns the possibility that Engelhard manufactured asbestos-containing thixotropic fillers and the second concerns an allegation that talc mined a number of years ago by an Engelhard subsidiary was "serpentine," i.e., contained asbestos. Based on our review of relevant documents and discussions with Engelhard personnel, we can reiterate categorically what was said in my July 27, 2001 letter to you: neither Engelhard nor any of its predecessor companies or subsidiaries ever manufactured any asbestos-containing products. Specifically, (i) Engelhard does not now and did not in the past manufacture an asbestos-containing thixotropic filler and (ii) the talc mined and distributed for a short period of time by an Engelhard subsidiary did not, according to numerous analyses, reports and studies, contain asbestos.

Thixotropic Fillers

You mentioned that you have no information that Engelhard manufactured thixotropic fillers, but that you believed that Engelhard was the type of company that might manufacture these products, and that some thixotropic fillers, to your knowledge, contained asbestos.

You asked for confirmation that Engelhard did not manufacture any asbestos-containing thixotropic fillers. This letter serves to provide this confirmation.

Engelhard does not now, and as can best be determined, has not ever manufactured a "thixotropic filler." At present, Engelhard mines and manufactures attapulgite which is used in industrial processes as a thickener. However, attapulgite, as is true of all products currently, and in the past, mined, manufactured or produced by Engelhard and its predecessors and subsidiaries, does not contain asbestos or asbestos-like fibers nor has attapulgite ever been connected to or associated with any asbestos-related disease.

In short, I believe Engelhard can confirm, as you requested, that it does not now, and has not in the past, manufactured or produced an asbestos-containing thixotropic filler.

Talc

You forwarded to me an excerpt from the 1973-1974 Modern Plastics Encyclopedia which lists Emtal, the trade name for talc produced and distributed for a short period of time by Eastern Magnesia Talc Co., a former subsidiary of Engelhard. This one-line listing appears to indicate that the Emtal talc was "serpentine".

We previously sent to you, as an enclosure to my July 27, 2001 letter to you, a copy of an affidavit prepared in May 1989 by William Ashton, who for thirty-five years was actively involved in investigating and studying the domestic and international talc industry and talc technology while employed by Johnson & Johnson. Mr. Ashton, after referring to and discussing in his affidavit numerous investigations, examinations and studies of Emtal talc, concluded that "[f]rom the 1940's through the 1980's [the affidavit is dated May 8, 1989], talc mined in Vermont and specifically the talc mined by Engelhard Corporation (and its predecessors) from the talc mine located in Johnson, Vermont [a single mine that was Engelhard's only source of talc] has been considered to be talc free from contamination from asbestos." (See Ashford Affidavit, ¶ 2)

Indeed, one of the studies described in the Ashford Affidavit occurred at almost the same time as the publication of the 1973-1974 Modern Plastics Encyclopedia. A scientific paper entitled, "Occupational Exposures to Non-Asbestiform Talc in Vermont," reported on an environmental study that was conducted during the summer of 1975 and the winter of 1976 of three Vermont talc companies, including Eastern Magnesia Talc and its Johnson, Vermont mine. The paper concluded that "petrographic microscopy analysis, analytical transmission electron microscopy, and x-ray diffraction with step-scanning revealed no asbestos in the bulk samples" (emphasis added) from the three Vermont companies. (See ¶ 6 and Exhibit D of the Ashford Affidavit).

In addition, the Ashton Affidavit recounts sworn testimony in a lawsuit by Dr. Alfred H. Chidester who had been employed for 39 years by the U.S. Geological Survey, a unit of the U.S. Department of the Interior. For a period of about 18 years, from 1944 through 1962, Dr. Chidester was primarily concerned with the talc deposits of Vermont and Northern Massachusetts. (See Ash-

ford Affidavit, ¶ 4). In testifying in 1983, Dr. Chidester stated that he never found veins of chrysotile asbestos in talc located in Vermont. He acknowledged that chrysotile was a serpentine mineral found in serpentinite rock, but that, in the formation of talc in Vermont, all of the serpentine minerals had been changed to talc. He concluded: "So any asbestos that may have been there in the first place is altered to talc." Dr. Chidester further testified that he personally had been at the talc mine in Johnson, Vermont and, based on his personal observation and testing, all of the serpentinite at the Johnson mine had been changed to talc and magnesite. (See Ashford Affidavit, ¶ 8 and Ex. G) Thus, at the Johnson, Vermont mine, which was the only talc mine ever operated by Engelhard or any of its subsidiaries, and in Vermont in general, talc and serpentine are mutually exclusive.^a

I believe this letter answers your inquiries as to thixotropic fillers and talc formerly mined by Engelhard. It reiterates the statement in my July 27, 2001 letter that neither Engelhard nor its predecessors or subsidiaries ever manufactured an asbestos-containing product. As a result, we believe that there cannot be any good faith basis for Engelhard to remain as a defendant in the Holmes lawsuit or to be named a defendant in any new lawsuits by plaintiffs claiming exposure to asbestos.

As always, I am available, by telephone and in person, to answer any question you may have pertaining to this correspondence or to provide any further information or documents that may be appropriate. As noted, Engelhard very much appreciates the opportunity to respond to the questions you have raised. We look forward to hearing from you soon.

Sincerely,

FORMAN, PERRY, WATKINS, KRUTZ & TARDY, PLLC



Handwritten signature of Marcy L. Bryan, consisting of stylized initials and a long horizontal flourish.

Marcy L. Bryan

CC: Fred Krutz

BCC: Peter Sloan

^a You should also note that one of the analyses of Engelhard's talc that is referred to in the Ashford Affidavit is by Dr. F.W. Pooley of the University of Cardiff in Wales, England, whom you may be aware has provided expert opinions and testimony to plaintiffs in a large number of asbestos-related lawsuits. (See ¶ 7 of the Ashford Affidavit and the analysis by Dr. Pooley, a copy of which is enclosed.)

APPENDIX A, TAB Z

PADUANO & WEINTRAUB

Fax: 212-785-9099

May 10 2002 4:44

P.02

PADUANO & WEINTRAUB LLP

1384 BROADWAY
24TH FLOOR
NEW YORK, NEW YORK 10018

TELEPHONE: 212-785-9100
TELECOMER: 212-785-9099

April 15, 2002

Re: Chernick v. ABB Lummus Global, Inc., et al./Index No. 01-116741

Dear Mark:

In our recent settlement conference with the Special Master in the referenced matter we agreed to provide to your office documents we are aware of that establish that the talc Engelhard Corporation ("Engelhard") or any of its present or former subsidiaries allegedly sold to Bondo Corporation was asbestos-free. Enclosed with this letter are such documents, which are explained below.

The only talc mine ever operated by Engelhard or its subsidiaries was operated in Johnson, Vermont by the Eastern Magnesia Talc Company ("EMTalc"), a former subsidiary of Engelhard. EMTalc (now known as Pita Realty Limited) produced talc from the Johnson mine from October 1967, when EMTalc acquired the mine, until 1983, when the mine was closed for economic reasons.

A number of analyses of the talc produced by the Johnson mine have been conducted. All of them concluded that the talc was asbestos-free. The enclosed Affidavit of William H. Ashton, dated May 8, 1989 (with attached Exhibits A - G), summarizes many of the investigations, examinations and studies. All of them concluded that the talc produced from the Johnson mine did not contain asbestos.

Also enclosed is a copy of a December 22, 1982 report by Dr. F.D. Pooley, entitled *Report of the Examination of Talc Samples from the Johnson Talc Mine*. This study analyzed a sample from the Johnson mine using Scanning Electron Microscopy, Energy Dispersive Spectroscopy, x-ray diffraction analysis, and analytical Transmission Electron Microscopy ("TEM"). The study concluded that no asbestos was present in the sample.

Finally, we have enclosed a copy of a May 1977 report prepared by the National Institute for Occupational Safety and Health, entitled *Analysis of Talc by X-Ray Diffraction and Polarized Light Microscopy*. This report analyzed 100 talc samples, including a sample of EMTalc talc, using Polarized Light Microscopy, Dispersion Staining, x-ray diffraction, TEM, and electron microprobe. The analysis of the sample of EMTalc talc found no asbestos. (See NIOSH Report, Appendix A, page

PADUANO & WEINTRAUB LLP

38, Sample No. 066.)

Given the foregoing, there appears to be no basis for your clients to assert claims against Engelhard. We hereby request that you dismiss Engelhard from this action. We look forward to speaking with you again at the upcoming settlement conference.

Yours sincerely,


Gideon Mark

Mark Bibro, Esq.
Early & Strauss, LLC
360 Lexington Avenue, 20th Floor
New York, New York 10017

(Enclosures)

VIA FEDERAL EXPRESS

APPENDIX A, TAB AA

MONTGOMERY, McCracken, Walker & Rhoads, LLP
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302-504-7800
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ONE WESTLAKES, SUITE 200
BERWYN, PA 19312
610-889-2210
FAX 610-889-2220

November 18, 2003

VIA FACSIMILE & U.S. MAIL

Signe O'Brien Rudberg, Esquire
Rudberg Law Offices
1105 E. Carson Street
Pittsburgh, PA 15203

Re: Berdine, et al. vs. Bakertalc, Inc. et al.
Washington County, Pennsylvania
Court of Common Pleas, G.D. No. 2003-4209

Dear Ms. Rudberg:

Thank you for setting aside the time today to speak with me concerning the status of defendant Eastern Magnesia Talc Company, Inc. ("EMTal") with respect to the above-captioned matter (the "litigation").

As we discussed at some length, based upon the extensive materials that have been sent to you, EMTal believes that, as in many previous cases, it should be dismissed from the litigation, and plaintiffs have agreed to continue to take that request under consideration.

With respect to the discovery which has been served by plaintiffs upon EMTal, this will serve to confirm that plaintiffs have agreed that EMTal has an indefinite extension of time to object and/or respond.

I look forward to speaking with you after you have had further time to consider EMTal's request to be dismissed from the litigation.

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A LIMITED LIABILITY PARTNERSHIP FORMED IN PENNSYLVANIA
LOUIS A. PETRONI - NEW JERSEY RESPONSIBLE PARTNER

BASF FC 0012094

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MONTGOMERY, McCracken, Walker & Rhoads, LLP

Signe O'Brien Rudberg, Esquire

November 18, 2003

Page 2

Thank you for your courtesies in this matter

Very truly yours,

A handwritten signature in black ink, appearing to read "Frank Newell", enclosed within a large, loopy oval flourish.

Francis Patrick Newell

● FPN:jfy

●
978601v1

BASF FC 0012095

BASF_SAMPSON000015048

MONTGOMERY, McCracken, Walker & Rhoads, LLP

Signe O'Brien Rudberg, Esquire
November 18, 2003
Page 3

bcc: Howard G. Sloane, Esquire
Michael Sullivan, Esquire
Michael Hassett, Esquire

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BASF FC 0012096

BASF_SAMPSON000015049

APPENDIX A, TAB BB

LITTLETON JOYCE
UGHETTA PARK & KELLY LLP
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www.littletonjoyce.com

Direct Dial: (732) 933-2730
robert.kelly@littletonjoyce.com

March 28, 2008

Rachel A. Placitella, Esq.
Cohen, Placitella & Roth, P.C.
127 Maple Avenue
Red Bank, NJ 07701

Re: **Angeline Comandini vs. Asbestos Corporation Limited, et als**
Docket Nos. : MID-L-4398-07 AS
Our File No. : 08951.00005
Vivian Volk vs. Asbestos Corporation Limited, et als
Docket Nos. : MID-L-10012-07 AS
Our File No. : 08951.00004
Joanne Fuschino, et al. vs. Asbestos Corporation Limited, et als
Docket Nos : MID-L-10899-07 AS
Our File No. : 08951.00006

Dear Ms. Placitella:

As you are aware, this office represents Defendants Eastern Magnesia Talc ("EMTAL") (now known as Pita Realty Ltd.) and BASF Catalysts LLC ("BASF") in the above referenced matters. Enclosed herewith are the various Notices of Adoption of the Standard Answer recently filed on behalf of our clients. As set forth in the pleadings and in further detail below, EMTAL and BASF did not manufacture asbestos-containing talc. Accordingly, we hereby request that the plaintiffs voluntarily dismiss with prejudice their complaint against our clients.

Attached hereto is an Affidavit from William H. Ashton that sets forth the history of the Vermont talc mines and more specifically, the history of the talc mined by Englehard Corporation (and its predecessors) from the talc mine located in Johnson, Vermont (the "Johnson mine"). As set forth in Mr. Ashton's Affidavit, after numerous investigations, examinations and studies of the Johnson mine, spanning more than fifty (50) years, it has been conclusively established that the talc from the Johnson mine does not contain asbestos. As such, there is no reasonable basis to support proceeding with the plaintiffs' claims against EMTAL and BASF.

Pursuant to R. 1:4-8 and N.J.S.A. 2A:15-59.1, we hereby demand that the complaints be voluntarily dismissed because, based on the foregoing, the allegations against EMTAL and BASF are frivolous. If the plaintiffs fail to comply with this request within twenty eight (28)

Our File No.: 08951.00006

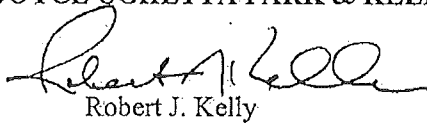
Page 2

days of service of this letter, we shall seek all available remedies under New Jersey Frivolous Litigation Rule and Statute.

Thank you for your anticipated attempt and prompt response.

Very truly yours,

LITTLETON JOYCE UGHETTA PARK & KELLY LLP



Robert J. Kelly

RJK:JS
Enclosures

LITTLETON JOYCE UGHETTA PARK & KELLY LLP

APPENDIX A, TAB CC

Jennifer A. Riester
216.687.3271
JRiester@westonhurd.com

November 12, 2008

John Mismas, Esq.
Bevan & Associates
10360 Northfield Rd.
Northfield, OH 44067

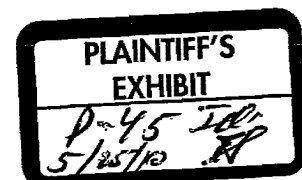
Re: Jennifer Graham v. Eastern Magnesia Talc
Cuyahoga County Common Pleas Case No. 656405
Russell Young v. Eastern Magnesia Talc
Cuyahoga County Common Pleas Case No. 531764

Dear John:

This letter is in response to the discovery requests served in the above captioned cases. The discovery requests are not properly directed to the supplier of talc. In lieu of providing objections to the discovery I am enclosing document relative to my client's talc. I would ask that you voluntarily dismiss Eastern Magnesia Talc and, in the Young case, both Eastern Magnesia Talc and Engelhard Corporation from these cases on the basis that talc produced by EMTal contained no asbestos.

EMTal operated a single talc mine in Johnson, Vermont between October 1967 and 1983. The following documents enclosed herewith support this request:

- 1) A copy of an Affidavit prepared by William H. Ashton dated May 8, 1989, with attached Exhibits A through G;
- 2) A copy of a report prepared by Dr. F.D. Pooley concerning an examination of talc samples taken from the Johnson, Vermont mine;
- 3) A copy of a 1977 NIOSH study entitled "Analysis of Talc By X-Ray Diffraction and Polarized Light Microscopy"; and



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John Mismas, Esq.
November 12, 2008
Page 2

- 4) A copy of a letter from RJ Lee Group, Inc. dated January 27, 1993 reporting the results of their analysis of a sample of EMTal talc.

Be advised that EMTal's (and, accordingly, Engelhard's) only talc mine was located in Johnson, Vermont, and that EMTal produced talc from that mine from October 1967, when EMTal acquired the mine, until 1983, when the mine was closed for economic reasons. The Affidavit of William H. Ashton summarizes numerous investigations, examinations, and studies of the Johnson mine. The conclusion derived from all of these studies is that the talc produced from this mine did not contain asbestos. A sample from the Johnson mine was analyzed in 1982 using Scanning Electron Microscopy ("SEM") and Energy Dispersive Spectroscopy ("EDS"), as well as x-ray diffraction analysis and analytical Transmission Electron Microscopy ("TEM"). The analysis revealed that no asbestos was present in the sample. (See Ashton Affidavit paragraph 7.) In addition, the 1977 NIOSH study analyzed 100 talc samples, including a sample of EMTal talc, by Polarized Light Microscopy ("PLM"), Dispersion Staining, X-ray Diffraction, TEM and Electron Microprobe. The analysis of the sample of EMTal talc found no asbestos present. (See NIOSH Report, Appendix A, page 38, Sample No. 066.) Furthermore, RJ Lee performed an analysis of a sample of EMTal talc by PLM, X-ray Diffraction, and TEM, from which RJ Lee concluded that no asbestos was present in EMTal talc nor the non-fibrous analogs of the asbestos minerals. (See RJ Lee Group letter.)

Engelhard and EMTal have been named as defendants and subsequently dismissed voluntarily as a result of the enclosed materials in various jurisdictions including Arkansas (4 plaintiffs), Kansas (191 plaintiffs), Michigan (40 plaintiffs), Mississippi (31 plaintiffs), Pennsylvania (over 300 plaintiffs) and most recently, Florida (1 plaintiff). In fact, in the Pennsylvania cases, the voluntary dismissal of Engelhard and EMTal came as the result of the review of similar materials not only by plaintiffs' counsel (Allen L. Rothenberg law firm in Philadelphia), but also their expert, Dr. Arthur Rohl.

I look forward to speaking with you once you have had an opportunity to review the enclosed materials. If any additional information would assist you in your decision, please contact me directly.

Very truly yours,

Jennifer A. Riester

JAR/drs
enclosure